

UNITED STATES OF AMERICA
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA,
Complainant,

8 U.S.C. 1324a
PROCEEDING

v.

Case 90100306

PPJV, INC., DBA PUBLISHERS PRESS,
Respondent.

ORDER DENYING MOTION IN LIMINE

On August 14, 1991, Complainant filed a Motion in Limine to Exclude Hearsay Statements of Francisco Barba Pursuant to 28 CFR 68.9 and FRE 802 (motion). On August 16, 1991, Respondent filed an opposition thereto.

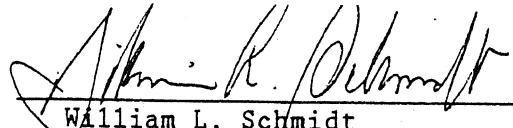
The motion pertains to the receipt of evidence concerning Complaint Count 1 which alleges that Respondent unlawfully continued to employ Ricardo Navia from April 13 through May 21, 1990. By its motion, Complainant seeks to exclude testimony by Respondent's president William Johnson about information provided in conversations with attorney Francisco Barba concerning Navia's employment eligibility.

The motion reflects that Complainant sought to depose Barba in preparation for the hearing in this matter. Barba voluntarily appeared for the deposition but declined to testify after asserting that the information sought was subject to the attorney-client privilege arising from his representation of Navia.¹ In view of Barba's refusal to voluntarily testify at deposition, the instant motion seeks to preclude any testimony by Johnson concerning his conversations with Barba.

From the foregoing, I conclude that the present motion is fundamentally premature hearsay objection which would be more appropriately lodged if when, Johnson seeks to testify concerning information which provided by Barba. For this reason, the motion is denied.

SO ORDERED.

Dated: August 23, 1991


William L. Schmidt
Administrative Law Judge
901 Market St., Suite 300
San Francisco, CA 94103
(415) 744-7896; (FTS) 484-7896

¹ Neither Respondent nor Johnson have ever been represented by Barba. For this reason, any claim that the attorney-client privilege attaches to potentially relevant conversations between Johnson and Barba appears misplaced.